

**REMARKS**

Claims 1 through 40 are pending in this application. Claims 10 and 21 are amended in several particulars for purposes of clarity in accordance with current Office policy, to assist the examiner and to expedite compact prosecution of this application. Claims 35 through 40 are newly added.

1. In response to the Requirement for Restriction, requiring the Applicant to elect between the inventions of Species I through XVI. The applicant provisionally elects Species VI (figures 8 and 10) with traverse.

2. Provisionally the following species with claims are,  
species I :fig. 1-2(claims 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 14, 22),  
species II : fig. 3 (claims 1, 2, 3, 4, 5, 6, 8, 9, 12,13, 22, 24, 32, 33),  
species III : fig. 4 (claim 10, 13),  
species IV : fig. 5-6 (claims 1, 11, 15, 16, 17, 21, 22, 23),  
species V : fig. 7 (claims 15, 17, 18, 19, 20 , 21,24, 25, 32, 33),  
species VI : fig. 8 and 10 (claims <sup>24-31</sup> 24, 25, 26, 27, 32, 33, 34, 35, 36, 37, 38, 39, 40),  
species VII : fig. 9 (claims 1, 2, 6, 7, 8, 12, 13, 22, 35),  
species VIII: fig. 8 and 11 (claims 24, 26, 27, 32, 33, 34, 35, 36, 37, 38, 39, 40),  
species IX : fig. 12 (claims 15, 17, 21, 22),  
species X : fig. 13 (claims 15, 17, 21, 22 ),  
species XI : fig. 14 (claims 15, 17, 21, 22),

species XII : fig. 15(claims 24, 25, 28, 32, 33, 35, 36, 37, 38, 39, 40),

species XIII : fig. 16(claims 1, 2, 6, 7, 8, 12, 13, 22, 32),

species XIV : fig. 17 (claims 24, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40),

species XV : fig. 18 (claims 1, 2, 3, 5, 6, 8, 12, 13, 32, 33), and /

species XVI : fig. 19 (claims 24, 26, 27, 32, 33, 35, 36, 37, 38, 39, 40). /

3. The Examiner states that there is no generic claim. If this is correct, then the imposition of a requirement for restriction under 37CFR§1.146 is improper where the application does not contain a generic claim.

4. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. As seen above one can see that some different claims overlap different species that are represented by the examiner.

Also, some of the species shown by Examiner are incorrect. For example, as seen in the first sentence of paragraph 62, the feature shown in figure 11 is for backpack 710 from figure 8 and also for bag 810 of figure 9, but the examiner makes species VIII to be figures 8 and 11.

5. As specifically stated in MPEP § 803, the examiner must show that the (A) The inventions must be independent (see MEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see

MPEP §806.05 - §806.05(i)); **and** (B) There must be a **serious burden** on the examiner if restriction is required (see MPEP §803.02, § 806.04(a) -§806.04(i),§808.01(a), and § 808.02).

The examiner must prove that the inventions are independent or distinct and that there is a serious burden on the examiner.

It is respectfully submitted that there would not be a serious burden upon the examiner in searching the invention species I through XVI.

First the Examiner has failed to show any kind of burden. The Examiner has failed to show that the different embodiments are in different classes. As stipulated in *MPEP* §803, if the search can be made without serious burden, the Examiner **must examine it on the merits** even if there are separate and distinct inventions. The Examiner has not alleged any serious burden in Paper No. 5 dated 18 October 2002 and thus the Examiner must examine the entire application.

Secondly, as seen above, for example, in species VI, claim 24 is also in species VIII. Further, claim 10 (species III) is dependent on claim 1 which has the features of species I and II for example. Claim 12 has the features of both species I and species II. Therefore, there would be no serious burden on the Examiner and as required by *MPEP* §803, the Examiner must examine the entire application on the merits.

Therefore, the applicant respectfully submits that the restriction requirement should be removed.

A fee of \$138.00 is incurred by the addition of two (2) independent claims in excess of 4 and

of six (6) claims in excess of 34. Applicant's check drawn to the order of the Commissioner accompanies this Response. Should the check become lost or detached from the file, the Commissioner is authorized to charge Deposit Account No. 02-4943 and advise the undersigned attorney accordingly. Also, should the enclosed check be deemed to be deficient or excessive in payment, the Commissioner is authorized to charge or credit our deposit account and notify the undersigned attorney of any such transaction.

In view of the foregoing election, this response is believed to be a complete response to the Requirement for Restriction. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

Respectfully submitted,



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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS**

Please amend claims 10, 21, and add claims 35 through 40 as follows:

1           10. (Amended) The apparatus of claim 1, further comprising a third unit accommodating  
2 said back wall, said third unit, comprising:

3           a first portion forming an enclosure with a chamber, said back wall having said bottom side  
4 connected to an internal portion of said first portion within the chamber; and

5           a flap formed from a side of said first portion closing an opening to the chamber of said first  
6 portion, the first unit capable of hanging on an object outside of said first portion when said flap  
7 uncovers said first portion and said back wall is lifted out of the chamber.

1           21. (Amended) The apparatus of claim 15, with said [first] back wall being set back a certain  
2 distance from an edge of the side walls.